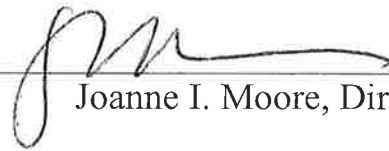


Policy and Procedure 6.01
Office of Public Defense

Subject: Appellate Program County Clerk Payments

Scope: Appellate Program

Date Issued: September 1, 2016



Joanne I. Moore, Director

Purpose:

To clarify OPD policies for allowing or denying superior court clerk's fees pursuant to RAP 15.5(a) and to provide uniform payment policies applicable to all county clerk fees.

References:

RAP 15.5(a), RAP 15.4(e), RCW 2.70.020(3), RCW 36.18.016(4), (11), (13), RCW 36.18.050, RCW 36.18.160,

Policy:

The Director of the Washington State Office of Public Defense has authority under RAP 15.5(a) to allow or deny claims for payment by county clerks for services provided to indigent appellate clients. Applicable sources of law related to clerk's fees are RCW 36.18.016, RCW 36.18.050, and RAP 15.4(e). OPD policies for allowing or denying clerk's fees under these provisions are enumerated below.

Policy No. Policy

6.01(A) RCW 36.18.016(4):

6.01(A)(1) Certified or authenticated documents are not required on appeal and OPD will not allow clerk's fees for such documents.

6.01(A)(2) As provided in this subsection, OPD will allow a clerk's fee of up to 50 cents per page for copies of records stored in paper form, and up to 25 cents per page for copies of records stored in electronic form.

6.01(A)(3) As provided in this subsection, OPD will allow a clerk's fee of up to \$25 per compact disc containing electronic records; however, records should be e-mailed instead of being provided on a disc when possible. Moreover, files should be consolidated onto the fewest possible number of discs.

6.01(B) RCW 36.18.016(11):

6.01(B)(1) County clerks do not routinely provide "historical searches," "statistical reports," or "exceptional record searches" for indigent appellate clients, and OPD generally cannot allow hourly clerk's fees under this subsection.

6.01(B)(2) Hourly clerk's fees for exceptional record searches may be allowed on a case by case basis. For instance, if a clerk spends four or more hours compiling audio records when creating an audio CD of hearings because of the unusually high number of hearings, OPD will consider that an exceptional record search and will allow up to \$30 per hour in clerk's fees. Invoices for exceptional record searches must be accompanied by an explanation of why the exceptional search was necessary.

6.01(C) RCW 36.18.016(13):

6.01(C)(1) OPD will allow up to \$25 per compact disc of recorded court proceedings.

6.01(C)(2) Hearings must be consolidated onto the fewest possible number of discs. OPD will not allow payment for multiple CDs if a single CD can store the requested hearings.

6.01(D) RCW 36.18.050:

6.01(D)(2) For fees in situations not specified by RCW 36.18.016, OPD will authorize a reasonable clerk's fee similar to that provided in RCW 36.18.016.

6.01(D)(3) For instance, no clerk's fee is specified in RCW 36.18.016 for audio files provided via e-mail without being recorded onto a CD or other portable electronic storage medium. As such, by analogy to RCW 36.18.016(11), OPD will authorize a payment of up to \$30 per hour for the time spent creating electronically transmitted audio files.

6.01(E) RAP 15.4(e):

6.01(E)(1) OPD will authorize clerk's fees for postage which are the "actual expense" of the clerk for transmitting clerk's papers and exhibits to the Court of Appeals.

6.01(E)(2) County clerks should send documents by campus mail, USPS First Class or Priority Mail and should not use Priority Mail Express or Certified Mail.

Other shipping companies may be used in specific cases if the cost of shipping is roughly equivalent to USPS.

- 6.01(E)(3) OPD will allow a de minimis shipping fee in lieu of the exact amount of postage (such as \$2 per mailing) which the county clerk certifies as representing the actual expense for transmitting records.